

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 1533 of 2021
Cr. Bail Application No. 1534 of 2021
Cr. Bail Application No. 1535 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

1st. December, 2021

Mr. Javaid Hussain, Advocate for applicants.
Mr. Talib Ali Memon, APG a/w SIP Abdul Ghaffar Lakho.
Complainant Abdul Munaf Shaikh present in person.

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Omar Sial, J.: Muhammad Muneer and Muhammad Hassan have both also sought post arrest bail in **crime number 169 of 2021** registered at the Gulberg police station under sections 397 and 34 P.P.C. Earlier, their application seeking bail was dismissed by the learned 6th Additional Sessions Judge, Karachi Central on 17-7-2021.

2. Muhammad Muneer and Muhammad Hassan have both sought post arrest bail in **crime number 736 of 2021** registered at the Gulistan-e-Johar police station under sections 397 and 34 P.P.C. Earlier, their application seeking bail was dismissed by the learned 8th Additional Sessions Judge, Karachi East on 19.7.2021.

3. Muhammad Muneer has also sought post arrest bail in **crime number 737 of 2021** registered under section 23(1)(a) Sindh Arms Act, 2013 at the same police station.

4. While separate F.I.Rs have been lodged, all offences are so interlinked that all three bail applications will be disposed of by this common order.

Background: F.I.R number 169 of 2021

5. Facts of the case are that the aforementioned F.I.R. was lodged by Abdul Munaf Shaikh on 27-3-2021 at 1100 hours for an incident which had occurred earlier that day. He reported that at 1000 hours that day while he was on his way back home after purchasing fodder for his animals, two boys, with pistols, stopped him and snatched his motorcycle and mobile phone from him. The F.I.R. was registered against unknown persons.

Background: F.I.Rs numbers 736 of 2021 and 737 of 2021

6. The background to the case is that the aforementioned F.I.R. was lodged by **Adnan** s/o Jalaluddin on 28-5-2021 at 0400 hours reporting an incident which had occurred earlier that night. He recorded that at 0315 hours he was on his way back home from a friend's house when four men on two motorcycles intercepted him and snatched his motorcycle, wallet and phone from him. The F.I.R. (F.I.R. 736 of 2021) was registered against unknown persons. In the meanwhile, a police party of the Anti Violent Crime Cell, Gulberg Division during snap checking stopped four persons on three motorcycles whose names were Muhammad Hassan alias Boy (applicant), Babar Ali, Muhammad Muneer (applicant) and Muzaffar Chandio. It was discovered by the police party that all three motorcycles were stolen ones and that Muhammad Muneer also had an unlicensed pistol on him. F.I.R. No. 737 of 2021 was therefore also registered against Muhammad Muneer. All four persons were arrested.

7. One of the motorcycles recovered from the four persons arrested belonged to the complainant Adnan whereas the another motorcycle was the one reported snatched by Abdul Munaf Shaikh (i.e. F.I.R. No. 169 of 2021 (above). Muhammad Muneer and Muhammad Hassan were therefore also arrested in F.I.R. No. 169 of 2021.

8. I have heard the learned counsel for the applicants as well as the learned Assistant Prosecutor General. The complainant of F.I.R. No. 169 of 2021, though not represented by a lawyer, was present on court notice. My observations and findings are as follows.

9. Learned counsel for the applicants has argued that it was not possible that after stealing one motor cycle the applicants would continue to indulge in street crime and snatch another motorcycle; that the complainant of F.I.R. 169 had stated in the F.I.R. that the two boys who snatched his valuables were Baloch looking whereas the two applicants are not Baloch; that the police had not prepared a sketch of the 2 boys; that no identification parade was held; that the applicants were not mentioned by name in the F.I.R.; that the applicants had been arrested because the police sought a bribe from them; no recovery has been made; section 103 Cr.P.C. had not been complied with. The learned

Assistant Prosecutor General has argued that the menace of street crime is growing rapidly in the city and that the applicants do not deserve any leniency.

10. It is true that the two F.I.Rs. lodged for the stolen motorcycles do not contain the names of the applicants however, this is expected as the complainants in both cases of snatching were unaware about the identity of the culprits when the respective incidents occurred. The complainants in both cases have however identified the applicants as the persons who had snatched their respective valuables. The complainant in F.I.R. 736 of 2021 has identified both the applicants in an identification parade held by the learned 7th Civil Judge and Judicial Magistrate on 5-6-2021. The complainant of F.I.R. No. 169 of 2021 has also identified applicant Muneer in an identification parade held by the learned 4th Civil Judge and Judicial Magistrate on 8-6-2021. At this preliminary stage, there appears to be little reason for both the complainants to identify the applicants as being the persons who had snatched their respective motorcycles.

11. The learned counsel's argument regarding police malafide at this stage does not hold much weight. Apart from the fact that there is no cogent evidence of any malafide, I find it odd that the police of two different police stations (Gulberg and Gulistan-e-Johar) and complainants of two different cases would all have an axe to grind against the accused to falsely implicate them. The stolen motorcycles, in both cases, have been recovered from inter alia the two applicants. I tend to agree with the learned Assistant Prosecutor General that street crime of a similar nature has increased tremendously creating a sense of fear amongst pedestrians and motorists. I am therefore not inclined to show any leniency exclusively on the ground that the punishment for section 397 P.P.C. does not fall within the non-prohibitory clause of section 497 Cr.P.C.

12. Upon a tentative assessment, the prosecution is in possession of sufficient evidence to establish a nexus of the applicants with the offences they are charged for. Of course it is the learned trial court that will decide finally the truth of the matter after it has had the benefit of examining the evidence against the applicants.

13. For the above reasons, all three bail applications are dismissed.

JUDGE

